

Application No.10/693,087
Response to Office Action

Customer No. 01933

R E M A R K S

Entry of this Amendment and reconsideration of this application as amended are respectfully requested.

Claims 1-19 and new claims 20-23 are pending in this application. Claims 1-19 were rejected. Claims 1-4, 14, 15 and 19 are amended herein to clarify the embodiments of the invention set forth therein.

RE: INFORMATION DISCLOSURE STATEMENT

Information Disclosure Statements (IDS) were filed on April 5, 2004 and October 23, 2003. Consideration of the references listed in these IDS's is respectfully requested. It is requested that the Examiner return initialed copies of the forms PTO/SB/08A filed April 5, 2004 and October 23, 2003 to confirm that the documents listed therein have been considered and made of record.

RE: THE REJECTIONS

The rejection of claims 1-3, 5-8 and 12-19 as being anticipated by Richards et al. (USP 4,869,049) and the rejection of claims 4 and 9-11 as being unpatentable over Richards et al. are respectfully traversed.

With respect to claims 1-13, claim 1 now recites a cartridge including a casing defining a cavity containing a length of flexible tubing, an annular cover which covers the cavity and

Application No.10/693,087
Response to Office Action

Customer No. 01933

first closing means for forming a closure at a front end of the tubing outside of the cavity without tying of the front end of the tubing. The first closing means include a metal clip or clasp attached to the front end of the tubing, a heat seal at the front end of the tubing and stitches which sew the front end of the tubing closed (as set forth in claims 2-4).

The elimination of the need to tie the tubing at the beginning of use of the cartridge in a waste disposal device is an important advantage of these embodiments of the invention. In this manner, a cartridge can be sold ready for use immediately upon purchase so that the purchaser can simply insert the cartridge into the waste disposal device and the waste disposal device is ready to receive waste package (as described in the specification at page 30, lines 1-8). No handling of the tubing is required.

Richards et al. does not disclose, teach or suggest a cartridge which includes a closure at a front end of tubing therein such that the cartridge is immediately ready for use without requiring tying of the front end of the tubing. Rather, Richards et al. teaches the exact opposite in that it states that the top of the tubing 2 must be pulled upwards from the core 1 and tied into a knot 24 as shown in Fig. 3 (see col. 3, lines 6-14). Thus, Richards et al. contemplates tying of the front end of the tubing and thus does not disclose any structure which

Application No.10/693,087
Response to Office Action

Customer No. 01933

performs the function of the "first closing means" as set forth in claim 1.

With respect to claims 2-4, it is respectfully submitted that the Examiner's position that it would have been obvious to "use whichever of the claimed fastening methods most appealed to consumers, since knotting (as disclosed in Richards et al.), stitching, hook and loop fasteners, and tie and clasp fastening are all art-recognized equivalents for the secure closing of refuse or trash bags" is inapplicable to the instant case since the first closing means are not used to "close" a bag of refuse or trash. Rather, the first closing means are used to form a closure at the front end of the tubing, at which time, there is no refuse or trash in the tubing. Thus, any alleged equivalence of fasteners for closing bags of refuse or trash is inapplicable to the claimed embodiments as there is no bag of refuse being closed.

Moreover, there is a significant difference between the tying of a bag as described in Richards et al. and the metal clip or clasp, heat seal or stitches as encompassed by the first closing means in claim 1. Specifically, tying of the bag in Richards et al. does not require any additional material or change the construction of the tubing. The tubing can revert back to its original form simply by untying the knot. By contrast, the first closing means in the invention impart a change to the

Application No. 10/693,087
Response to Office Action

Customer No. 01933

tubing or introduce an additional material in order to close the front end of the tubing, i.e., the additional material is the metal clip or clasp or threads forming the stitches while a change to the construction of the tubing is obtained by the heat seal which permanently melts parts of the tubing together.

Accordingly, Richards et al. does not disclose "first closing means" for forming a closure at a front end of tubing without tying of the front end of the tubing as set forth in claim 1, and the structure of such closing means described in the specification, i.e., a metal clip or clasp, a heat seal and stitches, are also not disclosed in Richards et al. nor are they art-recognized equivalents to knotting as described in Richards et al.

In view of the changes to claim 1 and the arguments presented above, it is respectfully submitted that claim 1 and claims 2-13 which depend therefrom patentably distinguish over Richards et al. under 35 USC 102 as well as under 35 USC 103.

With respect to claims 14-18, claim 14 now recites a cartridge including first closing means arranged in connection with the casing and the cover for closing and sealing a rear end of the tubing, the first closing means comprising a weakened portion formed on the cover such that a part of the cover on one side of the weakened portion is foldable about the weakened portion onto another part of the cover on an opposite side of the

Application No.10/693,087
Response to Office Action

Customer No. 01933

weakened portion. As described in the specification, e.g., at page 30, line 22 to page 31, line 5, the presence of the weakened portion, which may comprise score lines, facilitates the folding of the cartridge after use.

A cartridge including a weakened portion on a cover is clearly not disclosed, taught or suggested by Richards et al. Rather, the plastic ring 72 of the cartridge in Richards et al. does not include any such weakened structure which enables the cartridge to be folded after use.

In view of the changes to claim 14 and the arguments presented above, it is respectfully submitted that claim 14 and claims 15-18 which depend therefrom patentably distinguish over Richards et al. under 35 USC 102 as well as under 35 USC 103.

With respect to claim 19, claim 19 now recites that the cartridge includes a casing defining a cavity containing a length of flexible tubing and an annular cover which covers the cavity and is made of cardboard. An advantage of making the cover of cardboard is that it is easier to provide weakened sections thereon and bend for the purpose of folding the cover about itself when the tubing is exhausted in order to close the rear end of the tubing (as discussed above).

A cover made of cardboard is clearly not taught or suggested by Richards et al. wherein the core 1 is a rigid plastic moulding including an angle-section plastics ring 72 arranged at the top

Application No.10/693,087
Response to Office Action

Customer No. 01933

(see col. 4, lines 36-38). Richards et al. does not provide any suggestion or motivation to make the ring 72 of a different material to facilitate its bending, and indeed does not even contemplate bending of the cover after the tubing is exhausted.

In view of the changes to claim 19 and the arguments presented above, it is respectfully submitted that claim 19 patentably distinguishes over Richards et al. under 35 USC 102 as well as under 35 USC 103.

New claims 20-23 are added. Claim 20 depends on claim 1 and is directed to the embodiment wherein the cover is made of cardboard. Claim 21 depends on claim 8 and is directed to the embodiment wherein the second closing means comprises a weakened portion formed on the cover such that a part of the cover on one side of the weakened portion is foldable about the weakened portion onto another part of the cover on an opposite side of the weakened portion.

Claim 22 is a new independent claim including the feature of first closing means for closing a front end of tubing and which are selected from the group consisting of a metal clip or clasp attached to the front end of the tubing, a heat seal at the front end of the tubing and stitches which sew the front end of the tubing closed. Reasons for patentability of claim 20 are set forth above.

Application No. 10/693,087
Response to Office Action

Customer No. 01933

Claim 23 is also a new independent claim and includes the feature of a cartridge including a length of flexible tubing contained having a front end and a rear end and defining an elongate passage extending fully therebetween. The tubing further includes lines of depressions situated between the front end and the rear end and extending entirely across a circumference of the tubing to enable the tubing to be cleanly torn about each line while forming open ends of the tubing on both sides of the line. This embodiment is shown in Fig. 27 and described in the specification at page 45, lines 22-27. This embodiment of the invention is patentable over Richards et al. because Richards et al. does not disclose any depression lines formed along the tubing.

Moreover, the formation of such depression lines differs from prior art rolls of flexible bags because when forming the depression lines, the tubing on one side of the depression line is not sealed (as in conventional rolls of bags). Rather, open ends of the tubing are formed on both sides of the depression lines. These ends can then be closed when using the cartridge in a waste disposal device of the type disclosed in the specification.

Application No.10/693,087
Response to Office Action

Customer No. 01933

CLAIM FEE

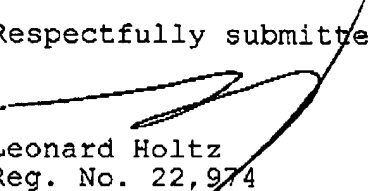
The application was originally filed with 19 claims of which 3 were independent, and the appropriate claim fee was paid for such claims. The application now contains 23 claims, of which 5 are independent. Accordingly, a form 2038 is attached hereto to cover the additional claim fee in the amount of \$113.00 (small entity) for the addition of 2 extra independent claims and 3 extra claims in total. In addition, authorization is hereby given to charge any additional fees which may be determined to be required to Account No. 06-1378.

* * * * *

In view of the foregoing, allowance of the claims and the passing of this application to issue are respectfully solicited.

If the Examiner has any comments, questions, objections or recommendations, the Examiner is invited to telephone the undersigned at the telephone number given below for prompt action.

Respectfully submitted,


Leonard Holtz
Reg. No. 22,974

Frishauf, Holtz, Goodman & Chick, P.C.
767 Third Avenue - 25th Floor
New York, New York 10017-2023
Tel. No. (212) 319-4900
Fax No. (212) 319-5101
LH:br/nps